



# The Forest Revitalization Plan Is it Working?

October 25, 2004



# The Forest Revitalization Plan



- Unprecedented agenda of change to the way we do business in the forest sector
  - In the last 18 months:
    - 25 Bills introduced; and,
    - 32 new or revised regulations attendant to these Bills
  - Basic tenet is **market based forest policy**
    - foster competition;
    - possible trade solution;
  - Are these new laws working as expected?
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# The Forest Revitalization Plan



In structuring the FRP, the government realized – with input from the Coast and the Interior:

- BC forest industry competes on a global scale where market forces dominate;
  - trade litigation, or at best managed trade, with our biggest customer is an overwhelming issue;
  - need to price and create access to timber at fair market value;
  - efficiency gains are mandatory to stay globally competitive;
  - coastal restructuring was imperative; and
  - interior reforms could follow later.
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# Market Issues



## ➤ External

- Exchange rates; lumber, panel and pulp prices; trade litigation; offshore competition

## ➤ Internal

- timber pricing, tenure, costs, beetles, fires, competition for logs, labour issues
  - legislation and regulation
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# The Impact of the FRP on the Forest Industry



The FRP impacts:

- Tenure and Ownership
  - Woods Operations
  - Mill Operations
  - Trade Litigation/Negotiations
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# Changes at a Glance



## Tenure and Ownership

### Forest Revitalization Act

- 20 % AAC take back with “compensation”

### Acquisition of Control / Tenure

- need for consent, 5 % AAC penalty and “conditions” eliminated

### Tenure Consolidation / Subdivision

- greater flexibility; not yet tested
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# Changes at a Glance



## Woodlands Operations

### Timber Pricing

- MPS on Coast as of Feb 29/04; on hold in Interior

### Contract and Subcontract Regulation

- under discussion, no new replaceable contracts

### Cut Control

- no annual limits or 5 yr minimum, greater flexibility in 5 yr maximum

### Cutting Permits

- possible problems with new limits on term and extensions

### Utilization

- remains unresolved (take or pay issue)

### Forest Practices

- move from very prescriptive to “results based”; not yet tested
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# Changes at a Glance



## Mill Operations

### Mills Delinked from Tenure

- appurtenancy, timber processing and closure rules eliminated

# Changes to Tenure Rights & Ownership

“Opening Up New Opportunities for British Columbians”

## The Forest Revitalization Act

### (a) Changes

- “20%” taking – effective March 31, 2003
- Compensation, valuation & dispute resolution
  - no compensation regulation to date

### (b) Implications

- Significant loss of tenure
- Negotiation of location / timing of loss
- Fair and reasonable compensation
- Must carry on under “loan back”
- Possible cut control issues
- Once takings done:
  - ❖ restructure replaceable contracts
  - ❖ replace lost fibre as required

### (c) Status

- ongoing, slower than expected
- still developing processes and timelines for attribution of volumes
- limited compensation agreements in place

### (d) Outlook

- serious concerns for business continuity
  - operating area issues, planning issues, ability to market timber sales by BCTS, FN or small tenures
- looming tax issues

# Changes to Tenure Rights & Ownership

“Open up the industry to better and more effective forest managers”



## Acquisition or Control of Tenure

### (a) Changes

- Need for consent gone
- 5% AAC penalty gone
- Conditions on consent gone
- No new Job Protection Plans
- Competition test & procedural rules added

### (b) Implications

- Positive for mergers, acquisitions and consolidations
- No conditions and no penalty equals greater value in transactions
- Must meet federal and provincial competition test
- Existing JPP's continue to 2006

### (c) Status

- working reasonably well
- no competition regulation to date, federal consent only

### (d) Outlook

- likely to see more acquisitions

# Changes to Tenure Rights & Ownership

“Open up opportunities for new participants and increase timber flowing to facilities that can offer employment”



## Consolidation and Subdivision of Tenure

### (a) Changes

- New unilateral right
- Forest management test added

### (b) Implications

- Greater freedom to restructure
- Should facilitate transactions
- Consolidation will be more valuable for area than volume based if AAC leverage available

### (c) Status

- not yet utilized

### (d) Outlook

- will be utilized in concert with tenure sales and mergers

# Changes to Woodlands Operations

## “Setting a Fair Price for the Public Resource”



## Timber Pricing

### (a) Changes

- Change to MPS
- Treasury Board, not Minister, sets TOA's
- New rules re conspiracy / information / appeals

### (b) Implications

- MPS beneficial if it improves overall economic operability
- CP symmetry has created issues
- Treasury Board, not Ministry, could become focal point for TOA discussions
- For new rules on conspiracy and information, ensure compliance systems in place

### (c) Status

- implemented on Coast –need work on 2<sup>nd</sup> growth adjustment
- pending in the Interior
- need resolution of grade 3 in Interior

### (d) Outlook

- not likely in the Interior before mid 2005
- Potential trade card

# Changes to Woodlands Operations

“Restructure the forest economy, especially on the Coast”

## Timber Harvesting Contract and Subcontract Regulation

### (a) Changes

- No “new” replaceable contracts
- Can negotiate out of existing replaceable contracts? (but not contractor clause)
- Special process for AAC reductions

### (b) Implications

- Reduce / restructure replaceable contracts:
- Rates: greater chance of licensee success at arbitrations may yield better rate negotiations
- Use negotiating out for other requirements

### (c) Status

- still in discussion
- issues with 20% take back processes

### (d) Outlook

- changes to voting procedure will be helpful

# Changes to Woodlands Operations

## “Increase Licensees’ Competitiveness”



### AAC Cut Control

#### (a) Changes

- Annual gone; minimum for 5 year gone
- Licensee can restart 5 year at its choice
- Carry forward eliminated; award of undercut to others remains

#### (b) Implications

- Greater flexibility to log according to market
- Manage period length for compliance – watch deadlines for notice; where possible, avoid undercut

#### (c) Status

- not yet tested

#### (d) Outlook

- positive impacts

# Changes to Woodlands Operations

## “Building a Healthier Log Market”



## Cutting Permits

### (a) Changes

- Existing permits expire by March 2007 – with 2 year extension opportunities and surrender opportunities
- New permits limited to 4 year maximum
- Extensions: limited to 1 year; fee on new, unless waived

### (b) Implications

- Cutting permit management more significant
- For existing CP's > 4 years, use new extension right
- For new CP's select term carefully – avoid extensions but, if term < 4 years and extension required, document reasons and seek waiver of fee

### (c) Status

- not yet tested

### (d) Outlook

- significant issues with “take or pay” rules
- issues with beetles and fires
- not conducive to good forest management

# Changes to Woodlands Operations

“Get the Most From Every Tree Cut”



## Utilization

### (a) Changes

- Take or pay replaces obligation to utilize and AAC penalty if not utilized
- New financial penalties on the way
- Still debating policy on when standing timber will be charged

### (b) Implications

- Significant issue when combined with CP terminations that will trigger utilization penalty
- Going forward, greater flexibility to leave material behind, but may face significant financial penalty – some uncertainty about legal description of obligation / penalty

### (c) Status

- needs resolution

### (d) Outlook

- needs resolution

# Changes to Woodlands Operations

“A principled approach to environmental management to ensure sustainability, accountability and responsibility”

## Forest Practices

### (a) Changes

- Amended Forest Practices Code Act started improvements in 2003
- Forest and Range Practices Act:
  - ❖ Objectives Driven – practices requirements more results based
  - ❖ Planning should be more efficient and longer term:
  - ❖ Transition – under review, currently in statute as Dec 31, 2005

### (b) Implications

- Opportunity - streamlined planning, more flexibility, potentially less costs with innovative practices
- Key decisions will influence value of FRPA to licensee:
  - ❖ Choice of licensees, licences, area and term
  - ❖ Selecting results and strategies to avoid doing more than is required

### (c) Status

- not yet tested
- only one approved FSP in the Province to date

### (d) Outlook

- can meet intents with diligence exercised by licensees and government
- concerns about timeline and business continuity
- concerns with agency staff acceptance
- concerns with “ratcheting” practice requirements

# Changes to Mills

“This may lead to rationalization and will create business opportunities and jobs”



## Mills Delinked from Tenure

### (a) Changes

- Appurtenancy, timber processing requirements, closure and curtailment laws all eliminated

### (b) Implications

- Opportunity to realign mills to wood supply
- Combine with greater opportunity for tenure & corporate transfers, consolidation & subdivision
- Tenures can be transferred / traded free of mill
- No longer any concern about volume going to licensee's mills vs. onto BC market
- Freedom to curtail / close mills to adjust to market conditions without facing AAC penalty

### (c) Status

- limited test – IFP Squamish

### (d) Outlook

- will have positive impacts

# Issues for Your Spare Time



## **Land Use and Working Forest**

- continuing need to improve land use planning processes
- timber targets concept under discussion

## **Licence Replacements**

- extensions granted, documents being revised, consultation will be an issue

## **Bill 96, Ending TL Royalty Litigation**

## **Others**

- Integrated Pest Management Act
  - Wildfire Act
  - Sustainable Resources Management Act
  - Land Act
  - Environmental Management Act
  - Wildlife Act
  - Identified Wildlife Management Strategy
  - the federal Species at Risk Act
  - First Nations Issues
  - and many more
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# Summary



- Bulk of planned policy changes translated into law
  - Significant threats to business continuity
    - ❖ potential “black hole” with take back volumes, capacity to approve plans and issue cutting authorities
    - ❖ tension between business needs and implementation challenges
  - Interior timber pricing remains unresolved
    - ❖ auction model in the Interior now questionable
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# Summary



- Huge investment by COFI and the CFLA in policy and legislation development with government
  - Significant amount of work remaining to “get it right” and to ease concerns about business continuity
  - Policy/legislation agenda should ease so we can focus attention on implementation
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